



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Herbert SCHREFL et al. Confirmation No.: 7592
Appln. No : 10/624,605 Group Art Unit: 3679
Filed : July 23, 2003 Examiner: V. Patel
For : SEALING DEVICE

REQUEST FOR PRE-APPEAL BRIEF REVIEW

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop **AF**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

This request is being filed concurrently with a Notice of Appeal and is responsive to the Final Official Action of August 30, 2005.

Reconsideration and withdrawal of the two 35 U.S.C. § 102(b) rejections and the single 35 U.S.C. § 103(a) rejection is respectfully requested in view of the following remarks.

A prima facie case of anticipation has not been set forth and the Rejections Under 35 U.S.C. § 102(b) are improper. A prima facie case of unpatentability has also not been set forth and the Rejection Under 35 U.S.C. § 103(a) is improper.

Independent claim 1, recites, *inter alia*, at least one sealing element, positionable opposite the moving surface to form a front and a rear, with respect to a surface running direction, comprising *a sealing section located at said front and a ventilation section*

located at said rear,...wherein said sealing element is pivotally mounted at an end of said ventilation section.

Independent claim 15, recites, *inter alia*, a sealing section located at said front and a ventilation section located at said rear, and said at least one sealing element being pivotably mounted at an end of said ventilation section to pivot relative to the moving surface to position said at least one sealing element into an operating position.

Independent claim 21, recites, *inter alia*, a sealing section located at said front and a ventilation section located at said rear;...wherein said sealing element is pivotally mounted in a region of an end face located at said rear.

Independent claim 23, recites, *inter alia*, at least one sealing element, positionable opposite the moving surface to form a front and a rear, with respect to a surface running direction, comprising a sealing section located at said front and a ventilation section located at said rear; said at least one sealing element having a groove to be pivotably mounted to pivot relative to the moving surface to position said at least one sealing element into an operating position; and a pivot bearing arranged to pivotably mount said sealing element, said pivot bearing comprising a fixed bearing element arranged to engage said groove.

Examiner's Assertion

The Examiner asserts that BRENDDEL discloses a ventilation section located at the rear of the sealing device.

Applicants' Response

In contrast to the instant invention, BRENDDEL shows seal strip 10 positionable opposite the moving surface or hollow cylinder 2, with respect to the surface running direction 6. See Figure 1 and Col. 5, lines 8-13. However, Applicant notes that

BRENDEL fails to show that the cylinder contains openings or forms a ventilation section located at the rear of the sealing device, as recited in the pending claims.

Examiner's Assertion

The Examiner asserts that BRENDEL discloses the sealing device pivotally mounted at an end of the ventilation section.

Applicants' Response

In contrast to the instant invention, BRENDEL shows the seal strip 10 with a leg 13 that is inclined toward inner circumferential surface 5 and biased toward the cylinder 2 by leaf spring 9. Thus, Applicant submits that any pivoting of the sealing device occurs at the front of the seal, not at an end of the ventilation section.

Examiner's Assertion

The Examiner asserts that WICKS discloses a ventilation section located at the rear of the sealing device.

Applicants' Response

Applicant notes that WICKS shows a seal assembly 10 that swings on a hinge pin 36' shown in figure 2, operating between zones 32 and 34, that pivots between two defined swing positions, sealing against surface 24. See Figure 2 and Col. 3, lines 14-57. However, contrary to the present invention, WICKS does not disclose a sealing element positioned opposite a moving surface to form a front and a rear with respect to a surface running direction or a pivot bearing arranged to engage the groove in the sealing element, as recited in the pending claim. In fact, WICKS does not disclose a ventilation section, or a ventilation section located at the rear end of the sealing element, as recited in the pending claims. Moreover, WICKS does not

disclose a sealing element having a groove to be pivotally mounted to pivot relative to the moving surface and/or a fixed bearing element arranged to engage the groove, as recited in at least independent claim 23.

Examiner's Assertion

The Examiner asserts that BRENDDEL teaches substantially the instant invention except for a sealing device formed of at least one of rubber graphite, polyethylene and thermosetting plastic, and that it would have been obvious to one of ordinary skill in the art combine the teachings of these documents.

Applicants' Response

Applicant notes that, while KAWAMURA discloses a seal for track linkage that is made of UHMW polyethylene, KAWAMURA does not disclose or suggest a sealing section located at the front and a ventilation section located at the rear, and the sealing element pivotally mounted at an end of the ventilation section, as recited in at least independent claim 1. Moreover, Applicant submits that KAWAMURA fails to show the features of the invention identified as deficient in BRENDDEL. Neither reference shows or suggests *inter alia*, a sealing section located at the front and a ventilation section located at the rear; and wherein the sealing element is pivotally mounted at an end of the ventilation section, as recited in at least independent claim 1. Furthermore, neither BRENDDEL nor KAWAMURA disclose or even arguably suggest a sealing element pivotally mounted at the rear end position of the sealing element, as recited in at least claim 1, and neither document discloses or suggests a ventilation system, or a ventilation system located at the rear end of the sealing element. Therefore, because neither applied document teaches or suggests at least the above noted features,

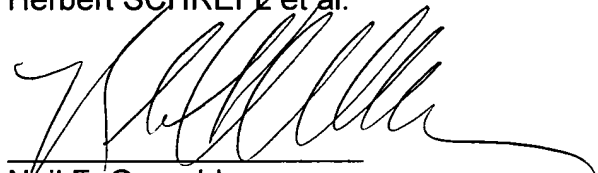
Applicant submits that no proper combination of these documents can render unpatenable the recited combination of features.

CONCLUSION

Reconsideration of the Final Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

Should the Examiner have any further comments or questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
Herbert SCHREFL et al.



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